



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM :

THE HONOURABLE MS.JUSTICE P.T.ASHA

Tr.C.M.P (MD) No.356 of 2019  
and  
C.M.P. (MD) No.8231 of 2019

Karthika

... Petitioner

Vs.

Senthilkumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.314 of 2018 on the file of the Sub Court, Theni and to transfer the same to the Sub Court, Thirumangalam along with H.M.O.P.No.62 of 2019.

For Petitioner : Mr.K.Hemakarthikeyan

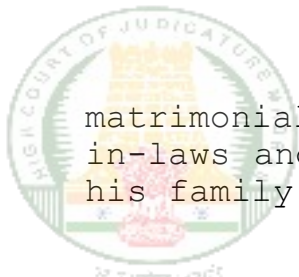
For Respondent : No appearance

### **ORDER**

The respondent / husband filed H.M.O.P.No.314 of 2018, on the file of the Sub Court, Theni, seeking dissolution of the marriage between the petitioner and the respondent. The petitioner / wife filed H.M.O.P.No.62 of 2018, on the file of the Sub Court, Thirumangalam, for restitution of conjugal rights. The petitioner has come up with this transfer Civil Miscellaneous Petition to withdraw H.M.O.P.No.314 of 2018, pending on the file of the Sub Court, Theni and to transfer the same to the Sub Court, Thirumangalam, to be tried along with H.M.O.P.No.62 of 2019.

2. Though the notice has been served on the respondent and his name has been printed in the cause list, none appeared on behalf of the respondent. Therefore, this Court has proceeded to hear the matter in his absence.

3. The petitioner in the affidavit filed in support of the petition, would state that she had been forced to leave her



matrimonial home as she was tortured physically and abused by her in-laws and husband. The respondent is also dancing to the tune of his family members.

4. The learned counsel appearing for the petitioner would submit that out of her wedlock with the respondent herein, she has been blessed with one female child. Even after the birth of the child, the attitude of the respondent has not been changed. He would further submit that the petitioner and her minor child are totally depending on her aged parents for their day-to-day expenses and she has also to take care of the minor child. That apart, the Sub Court, Thirumangalam, is vested with the jurisdiction to try both petitions for divorce and for restitution of conjugal rights, since the residence of the petitioner is within the jurisdiction of the Sub Court, Thirumangalam. He would further submit that the respondent has not even given a single penny of money to the petitioner and her child for maintenance.

5. The learned counsel appearing for the petitioner would further submit that contesting the petition in Theni, which is far away from her residence would be a cause of great deal and hard ship both physically as well as financially to the petitioner. Further, the permanent address of the petitioner is within the jurisdiction of the Sub Court, Thirumangalam. In these circumstances, the transfer is sought for.

6. Heard the learned counsel appearing for the petitioner.

7. A perusal of the documents would indicate that the petitioner is living at her parents' home and the respondent has not taken care of his wife and minor child. In these circumstances, she cannot force her parents to incur additional expenditure to attend the proceedings at the Sub Court, Theni.

8. Considering the fact that reasonable cause has been shown by the petitioner, this Court is inclined to issue the following directions:

"i) The Subordinate Judge, Theni, is directed to transmit the entire records in H.M.O.P.No.314 of 2018 to the file of the Subordinate Judge, Thirumangalam, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Subordinate Judge, Thirumangalam, after obtaining the records on transfer, is directed to try H.M.O.P.No.314 of 2018 along with H.M.O.P.No.62 of 2018 and dispose of both petitions as expeditiously as possible on merits and in accordance with law."



9. In the result, this transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To,

1. The Subordinate Judge,  
Theni.
2. The Subordinate Judge,  
Thirumangalam.

+1 CC to M/s.K.HEMAKARTHIKEYAN, Advocate ( SR-93355[F] dated 21/10/2019 )

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JMN(07.11.2019) 3P : 4C